

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§ CASE NO. 4:20-cr-00582-1
	§ HOUSTON, TEXAS
VERSUS	§ MONDAY
	§ NOVEMBER 30, 2020
HECTOR AARON RUIZ	§ 3:53 P.M. TO 5:38 P.M.

ARRAIGNMENT AND DETENTION HEARING (CONTINUED)
(VIA ZOOM)

BEFORE THE HONORABLE SAM SHELDON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:	SEE NEXT PAGE
ELECTRONIC RECORDING OFFICER:	JACQUELINE MATA
CLERK:	SHANNON JONES

TRANSCRIPTION SERVICE BY:

JUDICIAL TRANSCRIBERS OF TEXAS, LLC
935 ELDRIDGE ROAD, #144
SUGAR LAND, TEXAS 77478
(281) 277-5325 (office)
www.judicialtranscribers.com

Proceedings recorded by electronic sound recording,
transcript produced by transcription service.

APPEARANCES (VIA ZOOM):

FOR THE GOVERNMENT:

U.S. ATTORNEY'S OFFICE
Sebastian Edwards, Esq., AUSA
1000 Louisiana, Ste. 2300
Houston, Texas 77002
713-567-9503

FOR THE DEFENDANT
HECTOR AARON RUIZ:
(VIA ZOOM)

Javier O. Martinez, Esq.
Attorney at Law
712 Main St., Ste. 2400
Houston, Texas 77002
713-228-8500

INDEX

WITNESSES:	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
MICHAEL WHITMIRE				
By Mr. Martinez		6		44
By Mr. Edwards			35	
AMY RUIZ				
By Mr. Martinez	46			
By Mr. Edwards		50		
ELIZABETH FLORES				
By Mr. Martinez	53			
By Mr. Edwards		55		
EXHIBITS:		<u>Marked</u>	<u>Offered</u>	<u>Admitted</u>
Defendant's #1 - #7		57	57	58

1 HOUSTON, TEXAS; MONDAY, NOVEMBER 30, 2020, 3:53 P.M.

2 THE COURT: Okay. Good afternoon. I don't think we
3 need a translator, right, Mr. Martinez?

4 MR. MARTINEZ: Correct, Your Honor. We don't need a
5 translator.

6 THE COURT: Mr. -- we don't need a translator.

7 INTERPRETER: Thank you, Your Honor.

8 THE COURT: So 20-582, Hector Aaron Ruiz. Is that
9 you, sir?

10 DEFENDANT RUIZ: Yes, Your Honor.

11 THE COURT: And you're here with your attorney
12 Javier Martinez. Mr. Edwards is here on behalf of the
13 Government. Normally we would conduct this hearing in person,
14 all of us in the courtroom together, but because of the
15 pandemic it's not safe for all of us to be in the courtroom
16 together, so we're -- with your permission, Mr. Ruiz, we can
17 do this hearing by video. Do we have your permission?

18 DEFENDANT RUIZ: Yes, Your Honor.

19 THE COURT: And Mr. -- before we even get started,
20 Mr. Martinez, it's all well with your pregnant wife?

21 MR. MARTINEZ: Yes, Your Honor. Thanks for
22 checking. We're just sort of waiting now.

23 THE COURT: Okay.

24 So this is where we were at before. We heard from
25 Mr. Whitmire on direct. Mr. Edwards had laid out his case

1 according to detention. Mr. Martinez, you were getting into
2 your cross. You hadn't really got into the substance of the
3 case that were getting into the other factors, either danger
4 to the community or flight risk. So let me -- Let me just go
5 back on one other thing. I had some questions that I thought
6 of, but I'll let you finish your cross, Mr. Martinez.

7 Mr. Edwards, you told me before that he started with
8 the offense level of 30. So is that correct that you scored
9 him with an offense level of 30?

10 MR. EDWARDS: Yes, Your Honor. Yes, that's correct.

11 THE COURT: And then with -- with all the
12 enhancements he could end up with a life sentence. As to two
13 counts with the 924©, if he was found guilty of the counts
14 related to 924©, what would be his mandatory sentence before
15 we even get into related as 924©?

16 MR. EDWARDS: Your Honor, is that before the
17 application of 924© -- mandatory sentence?

18 THE COURT: Yeah, what would be his mandatory -- No,
19 with the 924© meaning that would carry a mandatory because
20 it's a 924© as to both counts. What would be his mandatory
21 sentence before you even got into the other offenses?

22 MR. EDWARDS: Your Honor, it's just a mandatory
23 minimum of five years for 924©.

24 THE COURT: And with those the facts, so it's five
25 and five? Does each incident result in a five-year, mandatory

1 five-year sentence?

2 MR. EDWARDS: Yes, Your Honor.

3 THE COURT: Okay. So if he was convicted on those
4 two it would start with 10 plus whatever, it would be a
5 consecutive sentence of whatever else, whatever comes first,
6 plus the 10 years?

7 MR. EDWARDS: Your Honor, that's my understanding.
8 Yes, Your Honor.

9 THE COURT: Okay.

10 Okay, go ahead, Mr. Martinez.

11 Agent Whitmire, you're still under oath. And it's
12 all yours, Mr. Martinez.

13 (Audio glitch).

14 MR. MARTINEZ: Okay, can you hear me now?

15 THE COURT: Yes.

16 MR. MARTINEZ: Okay. Thank you.

17 CROSS-EXAMINATION OF MICHAEL WHITMIRE (Resumed)

18 BY MR. MARTINEZ:

19 Q Agent Whitmire, I'm going to sort of start off where I
20 left off last week. And I want to talk about the Texas
21 Rangers investigation. And as part of their investigation
22 they reviewed Mr. Ruiz's employment file from Arcola Police
23 Department, correct?

24 A Yes.

25 Q And within his employment file there were no other prior

1 instances of misconduct, right?

2 A Correct.

3 Q There was no prior citizen complaints about sexual
4 harassment.

5 A Correct.

6 Q There were no prior citizen complaints about excessive
7 force.

8 A Right.

9 Q As part of the investigation that law enforcement
10 conducted they also interviewed some of his co-workers at the
11 Arcola Police Department, correct?

12 A I believe that's true, yes.

13 Q I believe that you interviewed one witness; is that
14 right?

15 A His sergeant, yes.

16 Q And as part of the investigation into Mr. Ruiz his
17 employment file did not have any other prior instances of
18 inappropriate behavior in the workplace, correct?

19 A That's right.

20 Q There was no prior allegations of sexual harassment in
21 the workplace.

22 A Right.

23 Q There was no prior allegations that he was insubordinate.

24 A Correct.

25 Q In fact, the sergeant that you interviewed is female,

1 right?

2 A Yes.

3 Q And she didn't sort of tell you that she felt
4 uncomfortable around Mr. Ruiz.

5 A That's right.

6 Q She did not allege that Mr. Ruiz was inappropriate with
7 her.

8 A She did not.

9 Q And she did not, you know, tell you that he was
10 aggressive or violent or short-tempered, correct?

11 A Correct.

12 Q I think she said that he was kind of quiet; is that your
13 recollection?

14 A Yes.

15 Q You're familiar with the indictment in this case,
16 correct?

17 A Yes, sir.

18 Q I want to talk about some of the things that the Court
19 mentioned right now, and that's Count 3 and Count 5 which
20 relates to the firearm offenses.

21 A Yes.

22 Q As it relates to those Counts there's no allegation that
23 Mr. Ruiz ever pointed a weapon at either one of these women,
24 right?

25 A Right.

1 Q There's no allegation that he told them that he was going
2 to shoot them.

3 A Correct.

4 Q There's no allegation that he told them that he was going
5 to kill them.

6 A Right.

7 Q (Audio glitch) going to hit them with the weapon.

8 A Right.

9 Q In fact, if I remember your testimony correctly, both of
10 these complaining witnesses stated that he took off his belt
11 during the alleged sexual assault, correct?

12 A Yes.

13 Q As it relates to the dash cam and, more specifically,
14 Count 2 of the indictment which relates to, you know,
15 destruction, alteration or falsification of records in federal
16 investigations, it's what's sort of commonly known as
17 obstruction of justice count, right?

18 A Yes.

19 Q And you were able to review the dashboard camera from the
20 November 16, 2019, incident, correct?

21 A Yes.

22 Q And Mr. Ruiz didn't destroy that tape.

23 A No.

24 Q He didn't tape over the traffic stop.

25 A No.

1 Q He didn't delete the footage.

2 A No.

3 Q When the Texas Rangers confronted him with these
4 allegations, nothing happened to that tape. You were able to
5 retrieve it; is that right?

6 A Arcola PD retrieved it, yes.

7 Q Oh. And then gave it to law enforcement -- investigate.

8 A Yes.

9 Q You mentioned on your direct testimony you talked about
10 the supplement report that Mr. Ruiz wrote that related to
11 Complaining Witness No. 2 and the ride that he gave her to her
12 home. Do you recall that?

13 A Yes.

14 Q And -- Sorry?

15 A No -- nothing here.

16 Q Oh, okay. And you mentioned that it had a wrong date on
17 the supplement report.

18 A That's right.

19 Q And that report was written by Mr. Ruiz.

20 A Yes.

21 Q That report, although it had the wrong date, it had the
22 name of the Fort Bend County Deputy who he assisted.

23 A Yes.

24 Q And said how he assisted him.

25 A Yes.

1 Q And had the name of the alleged Complaining Witness
2 No. 2.

3 A Yes.

4 Q It had her date of birth.

5 A Yes.

6 Q It had her son's name and his date of birth.

7 A Yes.

8 Q In fact, his supplement referenced the Fort Bend County
9 Police Report, right?

10 A Yes.

11 Q And it had that police report number, correct?

12 A I believe that's correct.

13 Q So that if anybody could -- if anybody had any questions
14 about what he did, they could have referenced that Fort Bend
15 County Police Report, right?

16 A Yes.

17 Q So the only thing that was, I guess, incorrect on the
18 supplement was the date, but everything else was accurate.

19 A I believe the date and the destination address was
20 incorrect.

21 Q Are you talking about 1210 Lawson, Rosharon, Texas?

22 A Yes.

23 Q Do you have a copy of the Fort Bend County reports?
24 Because I'm showing something different.

25 A I -- no, I don't believe. I don't have a copy of the

1 Fort Bend County report.

2 Q Oh, but you have a copy of the Ranger's report. And on
3 page 28 of 49 the Ranger references 1210 Lawson, Rosharon,
4 Texas, which is the same date that's written on Mr. Ruiz's
5 supplement. Do you have any reason to dispute that?

6 A I was referencing the correction to the supplement made
7 by Officer Ruiz's sergeant, Sergeant Carr. She corrected the
8 destination address.

9 Q All right. Let's talk about November 19, November 2019
10 which is the first alleged sexual assault. That complaining
11 witness was interviewed by several different law enforcement
12 agents, right?

13 A Yes.

14 Q And I want to talk about her statements to law
15 enforcement. The prosecutor referenced, started out with
16 saying how the night got started. One of the things that he
17 did not mention was that the complaining witness told
18 investigators that she started smoking marijuana around 6:00
19 p.m., right?

20 A I'm not -- I don't honestly remember the time she said
21 she had smoked it. It was earlier in that day.

22 Q Okay. We'll leave it at that. And after she had smoked
23 marijuana she drove to go pick up her friend, right?

24 A Yes.

25 Q They went to go buy a bottle of tequila and then went

1 over to the Seaside Lounge, right?

2 A Right.

3 Q They didn't drink much inside the club, but the
4 complaining witness would go outside and take shots of the
5 bottle of tequila that they had purchased, correct?

6 A Yes.

7 Q And after leaving that club they tried to go to another
8 club or they drove to another club, right?

9 A They were going to drive to another club, yes.

10 Q And on the ride over to that club the complaining witness
11 fell asleep in the car.

12 A Yes.

13 Q Then they drove back to her friend's house; is that
14 correct?

15 A Yes.

16 Q Her friend tried to convince her to stay there --

17 A Yes.

18 Q -- right? And the complaining witness did not listen to
19 her.

20 A Right.

21 Q And she drives away from her friend's house and this is
22 where the initial encounter with Mr. Ruiz occurred, correct?

23 A Yes.

24 Q From the dashboard camera and the Manvel Police
25 Department report you could -- they reference that she was

1 going 56 miles per hour in a 40-mile-per-hour zone, correct?

2 A I think so, yes.

3 Q So she was -- Mr. Ruiz was attempting to stop her for
4 speeding, correct?

5 A That's what he told the victim, yes.

6 Q Okay. But she was speeding, correct?

7 A I --

8 THE COURT: Did you say 6 miles in a 40-mile or did
9 you -- what was the speed you referenced --

10 MR. MARTINEZ: I'm sorry, 56 miles per hour in a 40-
11 mile-per-hour zone.

12 THE COURT: Okay. Okay, got it. Got it.

13 BY MR. MARTINEZ:

14 Q And the complainant told law enforcement that she didn't
15 pull over because she didn't think she was speeding.

16 A That's what she said, yes.

17 Q And she did not pull over immediately, right?

18 A Right.

19 Q She runs a stop sign.

20 A Yes.

21 Q In fact, it was about 3.5 miles from the point that Mr.
22 Ruiz tried to detain her to the point where she stopped,
23 correct?

24 A It was about 4 minutes. I haven't measured it out.

25 Q Okay. Well, do you have any reason to dispute the Manvel

1 Police Department report that says that she -- that this
2 person did not stop for Mr. Ruiz for approximately 3.5 miles?

3 A No reason to dispute it.

4 Q And in fact, the complaining witness told you that she
5 didn't think that she was being detained, right?

6 A She -- I don't understand your question. She was clear
7 she was being pulled over eventually.

8 Q Right. But the reason that she told you that she didn't
9 stop immediately was because she didn't think that she was
10 being stopped, right?

11 A Yes. She did not think he was trying to stop her.

12 Q But actually when you review the dash cam video from
13 Officer Ruiz, Officer Ruiz is trying to get her attention,
14 right?

15 A Yes.

16 Q I mean he pulls up next to her, right?

17 A Yes.

18 Q Flashes his lights.

19 A Yes.

20 Q So it's clear that she's (audio glitch). So she finally
21 pulls over and an interaction occurs between the two of them,
22 right?

23 A Right.

24 Q And, you know, she drives away and Ruiz goes in front of
25 her or behind -- or is he behind her?

1 A He's initially in front of her.

2 Q Okay. And during -- after that first detention the
3 complaining witness didn't call 911.

4 A No.

5 Q She didn't ask her friend to call 911.

6 A No.

7 Q She didn't ask her mom to call 911.

8 A No.

9 Q So she gets stopped a second time and another interaction
10 occurs between Mr. Ruiz and the complaining witness, right?

11 A Right.

12 Q And after that second interaction the complaining witness
13 has her phone on her, right?

14 A Yes.

15 Q And she doesn't call 911.

16 A No.

17 Q She doesn't ask her friend to call 911.

18 A No.

19 Q She doesn't ask her mom to call 911.

20 A No.

21 Q She herself doesn't call 911.

22 A No.

23 Q Eventually they end up at sort of some houses that are
24 being built. Is that a fair statement?

25 A Yes.

1 Q And we're talking about -- and I'm just referencing the
2 Ranger's report and the video -- some time between 2:45 and
3 3:29 a.m. when both vehicles are stationary, right?

4 A Yes.

5 Q And this is when the complaining witness says that the
6 alleged sexual assault occurred, right?

7 A Right.

8 Q At 3:29 she gets back into her vehicle and she drives
9 off, correct?

10 A Yes.

11 Q But then she stops.

12 A Yes.

13 Q She comes back to Mr. Ruiz's vehicle.

14 A Yes.

15 Q During your direct testimony you testified that the
16 complaining witness was crying the whole time while this was
17 allegedly occurring, correct?

18 A She told us she was crying the whole time she was with
19 him.

20 Q And that she was scared.

21 A Yes.

22 Q So here we have a situation where the complaining witness
23 describes this assault and she's scared, but yet she stops her
24 vehicle voluntarily and comes back to Mr. Ruiz's vehicle,
25 right?

1 A Right.

2 Q Does she go home after that?

3 A She did go home, yes.

4 Q But she didn't stay home, did she?

5 A No.

6 Q She went to go meet up with a guy that she met on
7 Instagram.

8 A Correct.

9 Q This was at 4:00 in the morning.

10 A Yes.

11 Q She goes over to his house.

12 A Yes.

13 Q Smokes marijuana with him, right?

14 A She might have. I honestly can't remember.

15 Q Okay. That's fair. So in fact she lied to her mom about
16 staying at home, right?

17 A I think so, yes.

18 Q So here we have, you know, she has described this, you
19 know, horrific assault and instead of staying home she goes
20 and meets up with some other male to smoke marijuana, right?

21 A Yes.

22 Q Law enforcement spoke with her parent, is that right?

23 A Yes.

24 Q And law enforcement learned that the parent had placed a
25 tracker on her phone, right?

1 A It was some type of tracking software that -- on her
2 phone, yes.

3 Q And they did this because she would get too drunk and
4 black out.

5 A I don't remember that testimony.

6 Q Do you have a copy of the Manvel Police Department
7 report?

8 A Unfortunately, not. I don't believe I do.

9 Q Do you have any reason to dispute that the complaining
10 witness's mother told law enforcement that they put a tracker
11 on her phone because she would black out?

12 A No reason to dispute.

13 Q After she reported this incident they had her undergo
14 what's commonly referenced as a staining analysis, right?

15 A Yes.

16 Q And this is where she goes to the hospital, meets with a
17 nurse and they do an examination of, you know, her genitals
18 and body; is that right?

19 A Right.

20 Q And there were no signs of trauma found on her vagina,
21 right?

22 A Correct.

23 Q Or her anus.

24 A Yes.

25 Q There was no bruising on her body other than some scratch

1 that she said somebody else made, correct?

2 A Yes.

3 Q All right. Let's talk about the complaining witness --

4 THE COURT: Can I -- Mr. Martinez. Can I just ask
5 for clarification. So this -- the alleged (audio glitch)
6 occurred on (silence - no audio) that was the date referenced
7 in the indictment.

8 MR. MARTINEZ: I'm sorry, Your Honor. I didn't catch
9 your question.

10 THE COURT: Yeah. The incident that you were just
11 referencing, what date did that incident allegedly happen? Was
12 it November 16, 2019?

13 MR. MARTINEZ: That's correct, Your Honor.

14 THE COURT: And what date did she -- it get reported
15 -- so when we say we're talking about morning hours of events
16 occurring, were those morning hours November 16th or were those
17 on November 15th?

18 MR. MARTINEZ: Agent Whitmire can correct me if I'm
19 wrong, but I believe it's early morning hours of November 16th.
20 And I believe it was reported either later on that morning or
21 that afternoon.

22 THE WITNESS: That's correct.

23 THE COURT: And who reported it? Was it her or her
24 parents?

25 THE WITNESS: I'm sorry, who's being questioned here?

1 I don't know.

2 THE COURT: I'm sorry, Agent Whitmire --

3 THE WITNESS: Oh, okay.

4 THE COURT: -- you're the one that's actually
5 providing evidence, so --

6 THE WITNESS: Oh, okay, okay. Yes, she came into the
7 Manvel Police Department with her mother and her father.

8 THE COURT: Okay. So the same day it was reported.

9 THE WITNESS: Yes, sir.

10 THE COURT: And then you referenced that the alleged
11 assault took place sometime between 2:45 and 3:29 a.m. And
12 then she drives off, but then drives back to Officer Ruiz?

13 THE WITNESS: Well, she stopped. He pulled up behind
14 her and she got out of her car and walked to his car.

15 THE COURT: Okay, I got you. So she drives off after
16 the incident and then he pulls up behind her, she stops again
17 and then goes back to his car?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: Okay. So it wasn't like she left and
20 then drove back to his car?

21 THE WITNESS: No, sir, she parked and then got out
22 and walked to his car.

23 THE COURT: Okay. And then how long was she at his
24 car on that final stop; do we know?

25 THE WITNESS: I would say a minute or less.

1 THE COURT: Okay. And did anybody ever ask her why
2 she stopped and got out of her car to go back to his car on
3 that final --

4 THE WITNESS: Yes, sir. I believe he still had her
5 license.

6 THE COURT: Okay.

7 THE WITNESS: I think she also said she tried to get
8 his name or phone number in an effort to identify him.

9 THE COURT: Okay. And then what was the physical
10 evidence that was found? You referenced on your direct again,
11 so I understand the sequence of that. What was -- was semen
12 found on her body, on her clothing? His semen found on her
13 clothing?

14 THE WITNESS: Yes, sir, his sperm cells were found in
15 the crotch area of her jeans.

16 THE COURT: Okay. The theory is -- that the assault
17 is the -- I'm trying to think of the word. The assault was the
18 oral act that you described on your direct. She's not saying
19 that there was -- in this case, the second victim there was, in
20 this case there wasn't any penetration?

21 THE WITNESS: The victim is not alleging that, no,
22 sir.

23 THE COURT: Okay. Okay. So, and, Mr. Martinez, is
24 there -- so there's no -- is there any dispute that his sperm
25 was found on her jeans?

1 MR. MARTINEZ: Yeah, I was --

2 THE COURT: Go ahead.

3 MR. MARTINEZ: I would have to consult with a DNA
4 expert at this point. But that's certainly something that we
5 will look at as this case moves forward.

6 THE COURT: Okay. Okay, I need to have -- again what
7 I'm -- what I'm -- the quagmire in that case is there's no
8 burden on you as to the trial, but one of the factors is I need
9 to weigh -- weigh the strength of the Government's case. Is it
10 your theory, and you don't have to answer my question, but is
11 your theory that what happened between 2:45 and 3:29 a.m. that
12 that was consensual? That something -- whatever happened was
13 consensual? Or is your theory that nothing happened?

14 MR. MARTINEZ: Well, as far as at this point, and I'm
15 certainly not committing to any sort of position at trial, but
16 I believe that Agent Whitmire's testimony was that Mr. Ruiz --
17 or at least from the evidence that I've gathered is that Mr.
18 Ruiz told the Rangers that this was consensual.

19 THE COURT: Okay. And I didn't want to reference
20 that because I know that there's -- you have a potential --
21 well, I figured to file a motion, based on what you were
22 saying, that you were going to file a motion to suppress that
23 evidence. And so, I didn't want to get into really what he
24 said. But, okay, understood now.

25 MR. MARTINEZ: It's a long road ahead, from what I

1 can gather, as far as potential defenses and exploring all
2 avenues of defense.

3 THE COURT: Right. And is there -- I mean I know --
4 is there even -- I don't know the case on this, but can someone
5 that's pulled over in -- like in those circumstances, as a
6 matter of law can they even consent?

7 MR. MARTINEZ: Well, I was -- you're asking these
8 questions. I actually have the juror -- Fifth Circuit Jury
9 Pattern Instructions for depravation of civil rights. And as
10 far as I'm concerned, you know, from what I'm reading and the
11 way that the Government has pled this case, from what I'm
12 gathering from the Fifth Circuit Jury Pattern Instructions is
13 that a person commits aggravated sexual abuse if the defendant
14 knowingly causes another person to engage in a sexual act by
15 using force against that other person or by threatening or
16 placing that other person in fear that any person would be
17 subjected to death, serious bodily injury or kidnapping. So
18 that's sort of what I'm getting from the Fifth Circuit Pattern
19 Jury Instructions at this point. So I think that the
20 Government has to prove use of force. And whether that's
21 implied or not, that's something that, you know, we'll get to
22 the bottom of.

23 THE COURT: Okay. And is there a lesser -- because
24 this is all viewed -- yeah, I mean I think all of us are
25 dealing with, you know, a case that's not a garden variety

1 federal crime to deal with. Is there a lesser included
2 offense, Mr. Edwards?

3 MR. EDWARDS: Your Honor, the aggravated assault
4 aspect of this is it enhanced or there is a lesser offense of
5 violating an individual's right to bodily integrity. And if
6 the Government proves bodily injury and not any type of
7 aggravated sexual abuse, then it's just a lesser threshold
8 sentence, Your Honor.

9 THE COURT: Okay. But on the first victim there's no
10 allegation -- obviously, there's psychological, but there's no
11 -- my understanding there's just what Agent Whitmire said,
12 there's no physical injury as to the first victim, but there is
13 as to the second one?

14 MR. EDWARDS: That's correct, Your Honor. And, you
15 know, the way we charged it was not that -- you know, not that
16 there was an actual -- an actual, you know, aggravated physical
17 act, but rather putting the victim "in fear of," it also says.

18 THE COURT: Sorry. Go ahead.

19 MR. MARTINEZ: I think the indictment says this act
20 included aggravated sexual abuse and kidnapping.

21 MR. EDWARDS: Right. Right, but, Your Honor, when
22 you look at the definition of aggravated sexual abuse it
23 includes, you know, the psychological aspect, putting the
24 victim "in fear of" and not necessarily that it occurred.

25 THE COURT: And if it -- you know, if it plays out

1 that the defense is or -- you know, on a consent defense,
2 obviously that would negate the fear aspect of it.

3 And I'm not asking either one of you to commit to any
4 position, but now I'm just struggling with deciding this bond
5 issue. So whatever you tell me, Mr. Martinez, Mr. Edwards, I
6 don't want the other side to say, look, at this bond hearing
7 you said A, B and C, and you're stuck with that position at
8 trial or sentencing. It was so early on that I'm not looking
9 to -- either one of you certain conditions.

10 Okay. Go ahead, Mr. Martinez.

11 BY MR. MARTINEZ:

12 Q Agent Whitmire, I'm going to move on to the second
13 allegation that was alleged to have occurred on August 11th
14 of 2019. And this sort of started when the second complaining
15 witness's boyfriend, I believe, was pulled over at Fort Bend
16 County for DWI; is that right?

17 A Yes.

18 Q And Mr. Ruiz was called to the scene so that he could help
19 translate for the people that were detained, correct?

20 A Yes.

21 Q So it was their request. It's not like he showed up, you
22 know, voluntarily or anything like that.

23 A I believe they requested his help, yes.

24 Q And when Mr. Ruiz arrived at the scene the second -- this
25 complaining witness was being disruptive with the investigation

1 that Fort Bend County was conducting, right?

2 A She was not completely following their instructions.

3 Q And in fact, the Fort Bend County Sheriff's Officers asked
4 Mr. Ruiz to detain this individual and put her in the back of a
5 unit, correct?

6 A Yes.

7 Q And when she was put inside of that unit she began kicking
8 the police car, right?

9 A Yes.

10 Q Mr. Ruiz came over and spoke with her and told her to calm
11 down, right?

12 A Yes.

13 Q He wasn't rude to her.

14 A No.

15 Q In fact, he was trying to help her.

16 A I don't know what his intentions were. He was telling her
17 to calm down.

18 Q Okay. When you were testifying on direct you stated that
19 the complaining witness said that Mr. Ruiz threatened her with
20 CPS, right?

21 A Yes.

22 Q And the other officers wanted to take her son away from
23 her, correct?

24 A Yes.

25 Q And those interactions between Mr. Ruiz and this

1 complaining witness were recorded.

2 A Some of them.

3 Q And -- Well, in the recorded conversations, which include
4 when he would go over and talk to her inside of the unit, he
5 never mentioned anything about CPS, right?

6 A As far as I know, yes.

7 Q In fact, he told her that the police were there to arrest
8 her boyfriend, not her.

9 A Right.

10 Q Then, you know, they asked him to take her over to the
11 house, her house or her boyfriend's house and this is where you
12 testified that the alleged sexual assault happened, right?

13 A At the boyfriend's house, yes.

14 Q Her son was inside of the house when this alleged incident
15 occurred, right?

16 A Yes. Yes.

17 Q And -- I'm sorry. He was interviewed at the Children's
18 Assessment Center, correct?

19 A Yes. Yes.

20 Q When he was interviewed at the Children's Assessment
21 Center he did not say that he heard weird noises coming from
22 the bedroom, right?

23 A Right.

24 Q He did not say that he heard yells from the bedroom.

25 A Right.

1 Q He did not say that he heard calls for help.

2 A Yes. Correct.

3 Q He did not say that his mother came out crying from the
4 bedroom.

5 A Right.

6 Q (Audio glitch) injuries on her body.

7 A You broke up. Could you repeat that? I'm sorry.

8 Q Yeah. I'm sorry. He did not say that she had any visible
9 injuries on her body or that her hair was messed up or that her
10 makeup was all over the place.

11 A Right.

12 Q Did you or any other member of law enforcement interview
13 Estaban Cano (phonetic)?

14 A Yes, I did.

15 Q You make a 302?

16 A Yes.

17 Q He didn't say anything that the complaining witness was
18 crying, right?

19 A Right.

20 THE COURT: Who is "he"?

21 MR. MARTINEZ: I'll put into context. I'm sorry.

22 BY MR. MARTINEZ:

23 Q Mr. Cano is the individual who came back to the house and
24 saw that Mr. Ruiz was there with the complaining witness,
25 correct?

1 A Right, he's the person that came back and found the door
2 locked and then later saw Ruiz and the witness there.

3 Q Okay. And whenever the complaining witness came out of
4 the room -- I know I already asked you this, but just to put it
5 into context -- he didn't say that he saw her crying, right?

6 A That's right.

7 Q In fact, he made (audio glitch) later on, right?

8 A According to some testimony, yes. Yes.

9 Q The complaining witness on this alleged incident said that
10 she recognized Mr. Ruiz, correct?

11 A Right.

12 Q And she recognized him from when he would come to the
13 restaurant where she worked, correct?

14 A Yes.

15 Q And, you know, she told you guys that, or other law
16 enforcement agencies, that she always felt that Ruiz kind of
17 stayed to himself, right?

18 A Yes, I think so.

19 Q That he was just a quiet guy.

20 A Right.

21 Q After this alleged incident this complaining witness had
22 several text message exchanges with a friend of hers that also
23 knew who Mr. Ruiz was, correct?

24 A I am not familiar with those.

25 Q And this happened on August 11, 2019, and she did not

1 report this alleged incident until was it late November or
2 early December?

3 A That time frame, yes.

4 Q Are you aware if this person has applied for any sort of
5 U-visa or anything like that?

6 A I'm not aware of any application.

7 Q Oh, by the way before I forget. When you interviewed the
8 first complaining witness she had a lawyer present during that
9 interview, correct?

10 A Yes.

11 THE COURT: Let me ask this, Mr. Martinez. On the
12 second victim, the second alleged victim when you said that she
13 applied for a U-visa. Does she have legal status in the United
14 States?

15 MR. MARTINEZ: I don't believe so, based on
16 everything that I've read.

17 THE COURT: I mean is that why you were asking that
18 question --

19 MR. MARTINEZ: Yes.

20 THE COURT: -- like did she -- get status because she
21 was the victim of abuse?

22 MR. MARTINEZ: Well, it's a lot more than that
23 because once they do that, they fill out this whole application
24 with a whole narrative of facts and factual statement as to why
25 (audio glitch) so that's what I was getting at.

1 THE COURT: Right. Right, so you were getting at
2 that if she'd done that that -- I mean two things that may
3 substantiate her claim, then it would also be if what she's
4 saying is corroborated, what she told other people?

5 MR. MARTINEZ: Correct.

6 THE COURT: Okay. Understood.

7 (Audio glitch)

8 THE COURT: Agent Whitmire, how old was -- how old is
9 the son of alleged Victim No. 2?

10 THE WITNESS: I believe at the time of the incident
11 he was approximately eight-years old.

12 THE COURT: Okay. Thank you.

13 Go ahead, Mr. Martinez.

14 BY MR. MARTINEZ:

15 Q This restaurant that she worked at, Mr. Ruiz, as far as
16 you know, never went back there and tried to talk to some of
17 her co-workers or anything like that after this alleged
18 incident?

19 A As far as I know, no.

20 MR. MARTINEZ: I'll pass the witness.

21 THE COURT: So, Agent Whitmire, so Mr. Cano, he saw
22 -- tell me again what he saw, what his purpose of knocking on
23 the bedroom door was? Why did he come back to the house? What
24 was sum and substance of that?

25 THE WITNESS: Well, yes, sir, Your Honor. After this

1 -- the arrest of the boyfriend the family sort of descended on
2 the boyfriend's house and tried to figure out what to do.
3 There was a lot of chaotic activity while they figured out what
4 to do about their father or their friend or whoever he was to
5 them.

6 And Mr. Cano was the boyfriend of the victim's
7 daughter. And so, he was sort of involved in this family chaos
8 and he showed up at the house to just join -- how he could help
9 the boyfriend out, I think.

10 THE COURT: And so who's at the house when he shows
11 up?

12 THE WITNESS: Mr. Ruiz, the victim and the eight-year
13 old boy.

14 THE COURT: And so did the eight-year old boy let him
15 in the house?

16 THE WITNESS: No, sir. As I understand it the front
17 door was unlocked. Mr. Cano went into the living room, found
18 the eight-year old boy by himself, and that motivated Mr. Cano
19 to try to find the boy's mother in the house. And that's why
20 he was trying doorknobs.

21 THE COURT: And what was his reaction when he knocked
22 on the door, the bedroom door and the alleged Victim No. 2 had
23 a police officer in the bedroom?

24 THE WITNESS: Well, he initially knocked then he went
25 away for eight to ten minutes, he said. Then he came back and

1 the door had been opened. And he told me that he was not
2 concerned with the scene he encountered. He was rather -- he
3 just told the victim, Come take care of your son, can you come
4 take care of your son. He was worried the boy was going to
5 wander out of the house. And so he told me that was his -- the
6 substance of his communication with the victim and Mr. Ruiz,
7 was someone needs to take care of this young boy.

8 THE COURT: Okay. And did you ask him if he found --
9 like why he thought someone in a police uniform would be in the
10 bedroom?

11 THE WITNESS: He said he was completely mentally --
12 his girlfriend was threatening to leave the house, so he was
13 trying to keep her from leaving, he was trying to find the
14 boy's mother. And he said he didn't have time to think of
15 really much else.

16 THE COURT: Okay. And what was -- I didn't know
17 until now Victim No. 2's -- do you know what her status is? Is
18 she unlawfully present in the United States?

19 THE WITNESS: At the time of the incident, yes, sir,
20 I believe she was.

21 THE COURT: Okay. And what did she -- what was her
22 reason for not reporting it contemporaneously?

23 THE WITNESS: She told us several reasons, sir. She
24 felt that he was a police officer and no one would believe her.
25 She said he had also threatened her that he had many contacts

1 in the area and he could make something happen to her if she
2 made a report.

3 THE COURT: And from the -- is there any -- I know
4 there's a dispute about what happened, Mr. Martinez, but
5 there's no dispute from the police records that Officer Ruiz
6 was at that house. The dispute is what happened in the house?

7 MR. MARTINEZ: Well, there's a dispute about the time
8 frame of when he was there. And, you know, there is about
9 1,000 pages worth of discovery that I received a week-and-a-
10 half ago, roughly, so I'm working my way through all of it.
11 But as far as there might -- there is a dispute about the time
12 frame of when these supposed allegations happened. But there
13 is police records that show Mr. Ruiz at that house at some
14 point in time. And I think that's based on maybe MDTs and dash
15 cam video.

16 THE COURT: Okay.

17 MR. MARTINEZ: So opportunity is something that, you
18 know...

19 THE COURT: Okay.

20 Go ahead, Mr. Edwards.

21 MR. EDWARDS: Thank you, Your Honor.

22 REDIRECT EXAMINATION OF MICHAEL WHITMIRE

23 BY MR. EDWARDS:

24 Q Agent Whitmire, just a few followup questions. So during
25 the last hearing that Mr. Martinez asked you questions about

1 Officer Ruiz and the interview he did with Texas Rangers,
2 during that interview, number one, have you had an opportunity
3 to review that full interview?

4 A Yes.

5 Q And is it correct that the Rangers explained to Officer
6 Ruiz that it was a voluntary interview?

7 A Yes.

8 Q And did they also tell him that he was free to terminate
9 the interview at any time?

10 A They did.

11 Q And that he was free to leave at any time?

12 A Yes.

13 Q And is that something that they reiterated throughout the
14 interview?

15 A Yes.

16 Q All right. And did it appear that Officer Ruiz or former
17 Officer Ruiz understood that it was a voluntary interview and
18 that he was free to go?

19 A It appears so to me.

20 Q And during the course of that interview isn't it correct
21 that they actually went outside and conducted a part of the
22 interview?

23 A Yes.

24 Q And why did they go outside?

25 A Mr. Ruiz requested it.

1 Q Do you know why he requested it?

2 A I believe he mentioned in the interview that there was
3 cameras recording the interview, and so he wanted to go outside
4 to talk further to them.

5 Q Okay.

6 THE COURT: Did that interview occur on November
7 16th? When did that interview occur?

8 MR. MARTINEZ: I believe it was the 20th.

9 THE COURT: 20th? Okay.

10 BY MR. EDWARDS:

11 Q And now regarding Victim 1, Agent Whitmire. She did
12 indicate that she had been smoking marijuana earlier that day.
13 You know, the afternoon on the 15th; is that correct?

14 A Yes.

15 Q And is it correct that she also said that she believed
16 that Officer Ruiz could have or would have smelled the
17 marijuana, could smell the marijuana from her vehicle?

18 A She believed that, yes.

19 Q But she also indicated that it wasn't a regular stop; is
20 that correct?

21 A That's what she said, right.

22 Q And she also said that she had been drinking earlier that
23 day, right? Or that night, correct?

24 A Yes.

25 Q And that she was, I think, "tipsy" was the word she used

1 to describe it?

2 A I think so, yes.

3 Q And she was afraid that she might be arrested for DWI; is
4 that correct?

5 A Yes.

6 Q But Officer Ruiz didn't do a field sobriety test; is that
7 right?

8 A No.

9 Q And he didn't take her up on the offer to search her
10 vehicle; is that correct?

11 A That's correct.

12 Q And he didn't ask for her license or registration; is that
13 right?

14 A He asked for her license, but not her registration.

15 Q Okay. And Mr. Martinez alluded to the fact that there was
16 -- that she had been drinking Patron with her friend at the
17 Seaside Lounge, at least they had some outside of the lounge to
18 drink Patron; is that correct?

19 A That's what the victim said, yes.

20 Q And so there was a bottle of Patron still remaining in the
21 vehicle; is that correct?

22 A Yes.

23 Q And you testified previously about how Officer Ruiz had
24 her take several shots of that Patron right before the sexual
25 assault occurred; is that correct?

1 A That's what she said, yes.

2 Q All right. But he himself did not -- according to her he
3 did not take any or drink any of the Patron; is that right?

4 A That's right.

5 Q Now when Officer Ruiz attempted to stop Victim 1, you just
6 testified or Mr. Martinez alluded to the fact that it took him
7 four minutes to pull her over; is that right?

8 A Yes.

9 Q All right. And what was she doing in the vehicle or what
10 did she indicate she was doing as he was behind her with his
11 lights flashing?

12 A She called her friend on the telephone.

13 Q And did she remain on the phone with her friend until he
14 pulled her over?

15 A Yes.

16 Q And is this the same friend, you testified previously,
17 that she was text messaging?

18 A Yes.

19 Q And that would be the text message where she indicated
20 that she -- something to the effect of "I'm going to die"?

21 A That was the same friend, yes.

22 Q Now after Officer Ruiz stops her for the first time is it
23 correct that he gets her driver's license and then tells her to
24 follow him; is that right?

25 A Yes, that's what she said.

1 Q All right. And you just testified on the question by Mr.
2 Martinez that -- could you describe again how they pull off?
3 Who pulls off first?

4 A Mr. Ruiz pulled off first.

5 Q And so what occurred that caused him to pull her over for
6 a second time?

7 A Mr. Ruiz tried to make a left-hand turn and he saw
8 Victim 1's car go past him on his right side and continue
9 straight. And then he pulled his car back, straightened up
10 behind her again and pulled her over.

11 Q And so the dash cam shows him pulling her over for a
12 second time; is that right?

13 A Yes.

14 Q And what does she say was his demeanor when he pulled her
15 over for a second time?

16 A She said he was irritated.

17 Q And did she say why he was irritated?

18 A Because she had not followed him.

19 Q And he had her ID at this point; is that correct?

20 A Yes.

21 Q And he admitted during questioning with Texas Rangers that
22 he in fact took her ID from her and told her to follow him;
23 isn't that right?

24 A Yes.

25 Q Now did you talk to her about why she didn't call 911?

1 A Yes, we asked her that.

2 Q And what did she respond?

3 A She said she was afraid the call would be routed to him or
4 he would hear the call over the radio or somehow learn about
5 it.

6 Q So, essentially, she didn't call 911 because she viewed
7 him as 911; is that right?

8 A That's right.

9 Q Now after the incident in the vehicle, the sexual assault
10 in the vehicle, she drove off; is that correct?

11 A Yes.

12 Q And you previously testified that she pulled off and
13 stopped. How far off did she pull away?

14 A To me it looks like maybe 100 yards.

15 Q And can you describe kind of where she was located as she
16 stopped in her vehicle?

17 A Yes. She stopped at the first cross street that she came
18 to after leaving the cul-de-sac.

19 Q And how long was she stopped in that position until
20 Officer Ruiz pulls up behind her?

21 A I'd probably say a little less than a minute.

22 Q All right. And do you recall if he activated his lights
23 and sirens when he pulled --

24 A No.

25 Q When he stopped behind her.

1 A I did not see any lights activated, no, or hear a siren.

2 Q But it is visible on the dash cam? That's something
3 that's visible on the dash cam; is that correct?

4 A The stop is visible, yes.

5 Q And again she indicated that she got out of her car after
6 he pulled up behind her in order to retrieve her license from
7 him?

8 A Yes.

9 Q Now you previously testified that she went home briefly,
10 but then she went to the home of someone she met on Instagram;
11 is that right?

12 A That's correct.

13 Q All right. Now was this a gentleman that she had just met
14 on Instagram or she previously knew him through meeting him on
15 Instagram?

16 A She previously knew him. She had met him a couple of
17 times before, I think.

18 Q And is it correct that she went to his house and they sat
19 in the car?

20 A Yes.

21 Q And did she indicate whether she went inside of his house?

22 A I don't believe she went inside his house.

23 Q And do you recall asking her why she went to that
24 gentleman's home?

25 A She said she just didn't want to be alone and wanted to

1 talk to somebody after what had happened to her that night.

2 Q And did she talk to him about what happened to her that
3 night?

4 A Yes.

5 Q And did you have an opportunity to speak with this
6 gentleman?

7 A Yes, I did.

8 Q And what did he indicate that she told him about what
9 happened that night?

10 A His exact words were -- he was not very happy to talk to
11 me, but his exact words were "she told me a cop pulled her
12 over, he made her suck his dick and he let her go."

13 Q Now regarding Victim No. 2. You talked about interviewing
14 Mr. Cano, Mr. Estaban Cano, the boyfriend of Victim 2's
15 daughter; is that right?

16 A That's right.

17 Q And did you also interview Victim 2's daughter? Or have
18 an opportunity to review Texas Ranger or local PD, Manvel
19 Police interviews of her?

20 A Yes.

21 Q And do you recall what she said regarding her mother's
22 demeanor after the night of this sexual assault?

23 A The daughter said the mother had changed, was not the
24 happy person that she was before this night.

25 Q Now you've had an opportunity to interview Victim 2; is

1 that correct?

2 A Yes.

3 Q Can you describe what her demeanor was during the
4 interview as she told about the events that unfolded on the day
5 of the sexual assault?

6 MR. MARTINEZ: I'm going to object to relevance as to
7 --

8 THE COURT: Overruled. Go ahead.

9 BY MR. EDWARDS:

10 A Victim 2 said -- well, she was crying through most of our
11 interview. At times crying very hard, couldn't get her breath.
12 She had to take two breaks during the interview with a victim
13 specialist and go out in the lobby and compose herself twice
14 before she came back in and continued the interview.

15 Q Okay.

16 MR. EDWARDS: I don't have any more questions. I
17 pass the witness, Your Honor.

18 THE COURT: Any recross, Mr. Martinez?

19 MR. MARTINEZ: Yes, Your Honor. Thank you.

20 RE CROSS-EXAMINATION OF MICHAEL WHITMIRE

21 BY MR. MARTINEZ:

22 Q You mentioned that the Complaining Witness No. 1 mentioned
23 that Mr. Ruiz was irritated --

24 A Yes.

25 Q -- right? Complaining Witness No. 1 was on the phone with

1 her friend during at least one of the times that Mr. Ruiz
2 approached her vehicle, right?

3 A I think so, yes.

4 Q And her friend did not say that she heard Mr. Ruiz yell at
5 her, right?

6 A That's correct. Correct.

7 Q Now you also said that the complaining witness told you
8 that she went to this guy's house who she met on Instagram
9 because she didn't want to be alone.

10 A Right.

11 Q Well, her mom was home, right?

12 A I'm sorry, the video broke up again.

13 Q When she got home and then left, her mother was home. Her
14 mother was home.

15 A Yes.

16 Q And her dad was home.

17 A Her mother was at the mother's house, I believe, yes.

18 MR. MARTINEZ: I don't have any further questions.

19 THE COURT: Okay. Anything else, Mr. Edwards?

20 MR. EDWARDS: No, Your Honor.

21 THE COURT: Okay. Do you have any other witnesses or
22 we'll turn to Mr. Martinez's witnesses?

23 MR. EDWARDS: Your Honor, we can turn to Mr.
24 Martinez's witnesses.

25 THE COURT: You can call them, Mr. Martinez, you can

1 proffer them, however you want to proceed, you go ahead.

2 MR. MARTINEZ: Okay. I have on video, I think it's
3 under the name "witness," I have Amy Ruiz. So I'm going to
4 call Amy Ruiz to testify.

5 THE COURT: Okay. Go ahead, Sharon, can you swear
6 her in?

7 THE CLERK: I'm hearing -- is anybody hearing like
8 some music because I can barely hear. Is it just me? I'm
9 hearing music.

10 THE COURT: I think it's just you.

11 THE CLERK: Okay. Can you raise your right hand,
12 please?

13 (Witness sworn.)

14 MR. MARTINEZ: And move forward, Your Honor?

15 THE COURT: Go ahead.

16 DIRECT EXAMINATION OF AMY RUIZ

17 BY MR. MARTINEZ:

18 Q Please state your name for the Record.

19 A Amy Ruiz.

20 Q Ms. Ruiz, how do you know Hector Ruiz?

21 A He's my brother.

22 Q And where do you live?

23 A We live at my mom's house in Rosharon.

24 Q And who lives there at that house?

25 A My parents and my other three siblings. Younger siblings.

1 Q And does Hector live at that house too?

2 A Yes, with his wife and two kids.

3 Q And what do you do for a living?

4 A I'm a nurse assistant. I work for (indiscernible).

5 Q And how long have you had that job?

6 A About two years.

7 Q So is Hector still married?

8 A Yes.

9 Q And his wife, how long has he been married with his wife?

10 A About five years.

11 Q And they still live in the same house?

12 A Yes.

13 Q Were you living at that house when Hector was arrested?

14 A Yes.

15 Q And have you been living at that house since he was
16 released on bond for the State case?

17 A Yes.

18 Q What kind of conditions -- Or let me ask you this. He had
19 some conditions where he couldn't leave at a certain time,
20 right?

21 A Yes.

22 Q Can you tell the Judge how he -- what he did, what has he
23 been doing since he was released on bond in Fort Bend County?

24 A Well, since the beginning he would just stay home, like
25 taking care of the kids. Later on he would go to a temple.

1 Well, he actually asked permission to the probation officer if
2 they could extend his time so he would attend to a temple. But
3 most of the time he would just stay home with the kids.

4 Q And what kind of things. Was he kind of helping them
5 during this pandemic with their school work and things like
6 that?

7 A Well, he has two kids, a two-year-old and a four-year-old.
8 They don't go to school yet, but he will be at home taking care
9 of them, make sure they have clean clothes, feed them, and he
10 would do some school activities with them.

11 Q You mentioned that he was going to a temple. Can you tell
12 the Court what he was doing at the temple and what kind of
13 temple it is?

14 A It's a Buddhist temple. And he was going there, help out
15 people to have a seat, pass around food or (indiscernible).

16 Q And how long has he been doing that?

17 A For about -- um, since he got out maybe like eight or nine
18 months.

19 Q How often was he going to that temple?

20 A He would go every Monday and later on he went Tuesdays.

21 Q There's a lot of people on the call and so, is it fair to
22 say that your brother has a lot of support in his immediate
23 family, but also his wife's family?

24 A Yes.

25 Q And are some of these people present on the call right

1 now?

2 A Yes. Right now we have my sister-in-law, my cousin, my
3 dad, well, my step-dad, our neighbor. The -- family which is
4 uncle, brother and cousin and aunt.

5 Q When he was on bond was he working?

6 A No, he started to work later on like the last month that
7 he was out.

8 Q And was part of the reason why he wasn't finding
9 employment because he didn't really want to leave the house?

10 A Exactly. He was afraid that he -- he knew if he came out
11 in public he didn't want to put his face out there because he
12 has two kids and he didn't want anything to happen to him or to
13 his kids or wife. So he would just stay home.

14 Q Would he also help -- What does your mom do for a living?

15 A We have a food truck and she works there.

16 Q And would your brother help her, you know, kind of prepare
17 the meals for her job?

18 A Yes.

19 Q If the Judge were to release him on bond, where would
20 Hector go and live?

21 A He will stay with us. My parents' house.

22 Q Do you believe that if the Court releases him on bond do
23 you believe that he will comply with the conditions of bond?

24 A Yes. He did in the beginning, he always will.

25 MR. MARTINEZ: I'll pass the witness.

1 THE COURT: Mr. Edwards. You're on mute.

2 MR. EDWARDS: Thank you, Your Honor. I'm sorry about
3 that.

4 CROSS-EXAMINATION OF AMY RUIZ

5 BY MR. EDWARDS:

6 Q Ms. Ruiz, have you had an opportunity to talk to your
7 brother about these charges?

8 A Yes.

9 Q And could you explain what he has said about these
10 charges, the veracity of these charges? What is the
11 explanation he has given you for what occurred on those two
12 nights?

13 A Not much detail since I don't -- I don't -- I don't ask.
14 But I kind of know what's going on. And pretty much what he
15 has said was that he wants this to be clear. I know that he
16 didn't do anything wrong.

17 Q And has he said whether or not the charges are true?

18 A Not true.

19 Q Has he said whether or not he came in contact with these
20 women, Victim 1 and Victim 2?

21 A I'm sorry, what was the question?

22 Q Has he indicated whether or not he actually came in
23 contact with Victim 1?

24 A On the accident that happened or...

25 Q No, no. And so, Mr. Ruiz is charged with violating the

1 civil rights of Victim 1 basically by committing, you know,
2 sexual assault on her. Now has he discussed this with you and
3 indicated that, yes, he had consensual sex with her and that it
4 wasn't a rape or sexual assault? Or has he said that, you
5 know, he doesn't know her, never met her and that it's a
6 complete fabrication?

7 A Well, he said that, yes, he had sex with her, but it was
8 nothing forced.

9 Q Okay. And how about as to the second woman, who we allege
10 is Victim 2 in the indictment? Again, has he said that, yes, I
11 had sex with another woman that was completely consensual, or
12 that it's a complete fabrication, I never had sex with her?

13 A No, he never touched her.

14 Q So as to Victim 2 he says he never touched?

15 A Yes.

16 Q Does he admit to being at her -- you know, going to her
17 house at some point after her boyfriend was arrested for DUI?

18 A I know that he gave her a ride with her son to a house.
19 I'm not sure which one. But he just said I dropped them off
20 and nothing else happened.

21 Q Okay. Now from the perspective of a woman could you
22 understand a woman who alleges she's been raped or a victim of
23 sexual assault feeling afraid if the individual who assaulted
24 her is still free and on the street?

25 MR. MARTINEZ: I'm going to object to her speculating

1 about what another person is feeling.

2 THE COURT: I'll sustain that, Mr. Edwards.

3 BY MR. EDWARDS:

4 Q Ma'am, were you surprised about these allegations against
5 your brother?

6 A Yes, it's my brother. I know he's a good person.

7 Q And would you describe him as a very quiet individual?

8 A Yes. With other people, yes.

9 Q And would you also say that you believe him to be a good
10 police officer?

11 A Yes.

12 Q Now he works the bank shift; is that correct?

13 A Yes.

14 Q All right. And so, were you ever with him on any of his
15 shifts, just as a ride along or to observe what he did, you
16 know, what he did during the shifts?

17 A No.

18 Q And now this is your brother and you don't want to see him
19 go to jail for this offense; is that correct?

20 A Correct.

21 Q And as his sister you would do whatever it -- whatever was
22 needed to assist your brother; is that right?

23 A Yes.

24 Q All right. Because as a family, families stick together;
25 is that correct?

1 A Correct.

2 MR. EDWARDS: Thank you, Your Honor. I appreciate
3 it. I don't have any other questions, Your Honor.

4 THE COURT: Anything else, Mr. Martinez?

5 MR. MARTINEZ: No, Your Honor.

6 THE COURT: Any other witnesses, Mr. Martinez?

7 MR. MARTINEZ: I will call one more witness to
8 testify and I will proffer the rest. Is that --

9 THE COURT: Okay.

10 MR. MARTINEZ: Liz Flores.

11 THE COURT: Good afternoon.

12 Shannon, can you swear her in.

13 (Witness sworn.)

14 DIRECT EXAMINATION OF ELIZABETH FLORES

15 BY MR. MARTINEZ:

16 Q Good afternoon, Ms. Flores. Can you please state your
17 full name for the Record?

18 A Elizabeth Flores.

19 Q And what do you do for a living?

20 A I'm a social worker. I've been a social worker for 10
21 years.

22 Q And where are you employed right now?

23 A Now I work for Lone Star Social Services. It's an
24 adoption agency. So (audio glitch).

25 Q And how do you know Hector Ruiz?

1 A At the temple. I assist the volunteer coordinator with
2 the volunteers, so I know him from there.

3 Q And what kind of sort of help would Mr. Ruiz do at the
4 temple?

5 A He's done a little bit of everything. But mostly ushering
6 the guests that come in, welcoming people, serving food,
7 passing out, you know, gifts and pretty much also -- also at
8 the parking lot escorting people to their cars and starting
9 them out.

10 Q When would he go and volunteer here at this temple?

11 A Monday nights mostly. Like weekends. Like there has been
12 some other weekdays.

13 Q And Monday is your busy day, basically, because that's why
14 he would go and volunteer on that day?

15 A Yes. Mondays we have about -- we'll get about 2,000
16 people that come in, probably more.

17 Q Did you ever have any disciplinary problems with him when
18 he would go and volunteer?

19 A No, not at all.

20 Q Did you ever feel unsafe around him?

21 A No. He's always very polite, very kind, respectful,
22 honest, diligent. A good, nice guy.

23 Q Would he show up on time when it was time to volunteer?

24 A Yes. Very reliable.

25 Q Did you ever -- did you ever hear of any problems from the

1 people that were going to the temple with -- that had any
2 problems with Mr. Ruiz?

3 A No complaints. No issues.

4 Q And how long -- do you know how long he was volunteering
5 at the temple?

6 A Roughly, from what I can remember, about seven months.
7 Maybe a little bit more.

8 MR. MARTINEZ: I'll pass the witness.

9 THE COURT: Thank you.

10 Mr. Edwards.

11 MR. EDWARDS: Yes, Your Honor.

12 CROSS-EXAMINATION OF ELIZABETH FLORES

13 BY MR. EDWARDS:

14 Q Ma'am, you indicated that Mr. Ruiz started ushering at the
15 temple approximately seven months ago?

16 A Yes.

17 Q So it would have been after he was charged by the State
18 with these charges that he's facing; is that correct?

19 A Yes.

20 Q And you indicated that there are approximately 2,000
21 people that attend the temple.

22 A Yeah, probably more than that.

23 Q And what percentage of those would you say are women? Is
24 it 50 percent or more?

25 A It's more than 50 percent, yes. It's mostly women --

1 yeah.

2 Q Okay. Thank you, ma'am.

3 MR. EDWARDS: I've no further questions, Your Honor.

4 THE COURT: Okay. Mr. Martinez, what would you like
5 to proffer? You're on mute.

6 MR. MARTINEZ: Luis Garza is in my office, Your
7 Honor. I can have him come to the screen where I can just
8 proffer him.

9 THE COURT: Sure. I don't need to see him. You can
10 just proffer what he would say.

11 MR. MARTINEZ: Okay. So, Mr. Garza has known Mr.
12 Ruiz since high school. They played on the same soccer team.
13 And now Mr. Garza is married to Mr. Ruiz's cousin. They have
14 gathered -- they have known each other for a very long time and
15 now he is considered family. And he has always known Mr. Ruiz
16 to be calm and even-keeled since he was in high school.

17 He knows that Mr. Ruiz has tried to take care of his
18 family since he was released on bail, spending time with his
19 kids, volunteering at the temple, helping his mother around the
20 house and also with her food truck business. He does not
21 believe that Mr. Ruiz is a danger to the community or a flight
22 risk.

23 Also at my office is his mother Myrna Saragoza
24 (phonetic). She has supported him, obviously, since he was
25 first arrested by Fort Bend County. She would go to court with

1 him when his case was pending in Fort Bend County. She
2 mentioned that while he has been out on bond for the large
3 majority of his time Mr. Ruiz would spend time at home. And
4 when he was at home he was actually helping Amy Ruiz build a
5 house within their same complex. She is a hard worker. She
6 describes her family to be very close and she does not believe
7 that her son will flee or that he's a danger to the community.

8 That's the three proffers that I have. Obviously
9 (audio glitch) that are here to support him and will continue
10 to support him throughout the pendency of this case.

11 Before I forget, Your Honor, I'd like to offer the
12 exhibits that I had emailed to you last week. They are
13 certified court documents from Mr. Ruiz's case in Fort Bend
14 County, and I'll offer them at this time.

15 THE COURT: Okay. Just describe them and -- just
16 describe them *en masse* and then I'll ask Mr. Edwards if he has
17 any objection. Describe them for the Record.

18 MR. MARTINEZ: Exhibit #1 is a copy of his bond
19 conditions. Exhibit #2, Exhibit #3, Exhibit #4, Exhibit #5,
20 Exhibit #6 are signed resets of when Mr. Ruiz was appearing in
21 court. Exhibit #7 is the bonding paperwork where it shows that
22 he bonded out on December 2nd of 2019. I did provide a copy
23 for the Government prior to the hearing today. Like I said,
24 they're certified copies, so I'll offer them at this time.

25 THE COURT: Any objection, Mr. Edwards?

1 MR. EDWARDS: No, Your Honor. No objection.

2 THE COURT: They'll be admitted.

3 You're muted, Mr. Martinez.

4 MR. MARTINEZ: Sorry. I don't have any further
5 witnesses.

6 THE COURT: Okay. So, you know, I'll give you my
7 thoughts. I haven't made up my final mind, but and then I'm
8 happy to hear your argument. I mean I've heard argument from
9 both of you as we've gone on from last week.

10 With the facts you have, Mr. Martinez, you've done a
11 great job, so any decision I make I don't want a reflection on
12 you. I think that your client, Mr. Ruiz, is in good hands.

13 But what I'm struggling with is I understand that you
14 have a situation where he was initially charged by the State.
15 He was initially charged by the State and then he's been on
16 bond for that conduct for the last year. And so your argument
17 is logical that there are conditions because he's followed
18 these conditions. But what I'm struggling with is this is a
19 different case in the sense it's a federal case that you have a
20 police officer that's charged with rape, that if he gets
21 convicted it's two counts. The grand jury, you know, is true-
22 billed and so I have to accept at least the grand jury finding
23 that there's probable cause that these two acts occurred. And
24 then we've heard evidence, obviously, hearsay is allowed. I'm
25 not seeing the two victims, but I'm not Judge Eskridge

1 (indiscernible) and we're far from a conviction.

2 But what I'm struggling with, Mr. Martinez, is if he
3 is convicted I mean there's a highly likely chance that he's
4 either going to get life or a very close sentence to life. In
5 the federal system there's no parole. And so, trust me, I've
6 thought about this case every day since we've had it. And
7 probably the toughest thing that I deal with as a magistrate
8 judge is deciding (indiscernible).

9 But you can't get any more serious of a federal case
10 than this. I mean you have federal cases, drugs cases that the
11 quantities get someone life, but there's no violence in this
12 case. We have financial crimes where the loss amount gets
13 people for life. But I mean here we're talking about a police
14 officer that's charged with sexual assault on two different
15 victims and at least one of them, it appears from the evidence
16 before me, that there's no dispute that he pulled her over, he
17 didn't know her, she was under the influence and it seems that
18 his version will be that she consented and her version that
19 it's rape. But that still -- it's a tough problem because it's
20 -- I mean you just don't ever think of a police officer and
21 that goes against all training, that he would pull somebody
22 over that's under the influence, that he'd even think about
23 that (indiscernible) to an act.

24 And so, I really just have to weigh is that you have
25 somebody that would be out on bond, but if they're convicted

1 there's a high probability for a life sentence or close to
2 life. And that's what I'm struggling with when weighing the
3 factors of potential flight risk or safety of the community. I
4 mean you've done -- you know, in the short amount of time
5 you've had for discovery you've made all the right arguments,
6 Mr. Martinez. And I started -- when we started this I thought,
7 you know, in my mind like this was a no-brainer. And you
8 really forced in the last week, you really honed in on the
9 arguments that you made and the evidence that you presented.
10 And so, I need more time, but I'm leaning toward detention.
11 And it's not an easy call it's just the reason of -- the nature
12 of the crime and if he is -- if he is convicted, what the
13 sentence would be. And so that's my thoughts.

14 But I'm happy to hear from you, Mr. Martinez. Like I
15 said, I mean this is probably a likely trial and your client is
16 lucky -- you've done an excellent job of putting these
17 arguments and I'm sure you'll do an excellent job at trial.
18 But that's my thoughts now.

19 MR. MARTINEZ: Judge, and I appreciate all of the
20 comments. I know that you've thought about this case a lot and
21 I can't ask for anything more than a thoughtful consideration,
22 even in light of this very serious matter.

23 I've also thought about this case a lot since I was
24 retained about a week-and-a-half ago. And one of things that I
25 thought about over the weekend was the Government's argument

1 that it's their position that Mr. Ruiz is a flight risk. And I
2 think that --

3 (Audio glitch)

4 THE COURT: I can take that. Mr. Edwards, you know,
5 I'm weighing that, regardless -- Mr. Edwards' position is that
6 he's a danger to the community. He's not arguing flight risk.
7 But I'm considering that, based on all the evidence I've heard,
8 that -- and I can do that in my role. But that would be me.
9 He hasn't said that.

10 MR. MARTINEZ: I'm sorry, did you say he hasn't said
11 that or --

12 THE COURT: That Mr. Edwards was saying the
13 Government is pursuing on a danger to the community (audio
14 glitch) flight risk. But on my own I'm considering, based on
15 the sentence, I'm considering -- just because the Government
16 doesn't believe doesn't mean that I can't on my own have those
17 findings. But go ahead.

18 MR. MARTINEZ: Of course. And, you know, what I have
19 gone back to since the beginning is when he first gets
20 interviewed by the Rangers and gets confronted with these
21 accusations. And, you know, he had time to, you know, leave
22 town, skip town. You know, he is a police officer and if he
23 were to spend any amount of time in jail his life is at risk.
24 And although that I seriously doubt that the Bureau of Prisons
25 would have cooperated in coming in here and said what kind of

1 conditions of confinement Mr. Ruiz would be under BOP because
2 of his status as a former police officer, I suspect that they
3 would say that they would keep a very close eye on him.

4 But, you know, he gets confronted by the Rangers and
5 they come to his house and they find him right in the place
6 where they expected to find him. He gets out on bond, no new
7 crimes, no bond violations, no tampering with witnesses. Now
8 we're not only talking about civilian witnesses, but we're
9 talking about law enforcement witnesses, as well. His co-
10 workers, the Fort Bend County Sheriff's Office. You know, it
11 would have been very simple to just go and talk to a fellow
12 officer and say, Hey, put in a good word with me. Or talk to
13 his sergeant, talk to the Fort Bend County.

14 And I don't think that there's any evidence on (audio
15 glitch) Ruiz attempted to tamper with any evidence after he
16 became aware that he was being investigated by the Texas
17 Rangers. Which, you know, they're an intimidating group. I've
18 seen them come to my office and spend time with lawyers. I
19 mean and he could have, I guess, you know, done things to cover
20 his tracks, but he didn't. There's no evidence of that.

21 He stayed home with his family for most of the time.
22 He had that support. He still has that support. His wife, his
23 wife's family. I don't think there is a risk of flight here.
24 I think that, you know, this is a person that's been out on
25 bond for almost a year. And he has, I guess, accumulated

1 almost a year's worth of credit. And we're not talking about,
2 oh, well, he might fly, he might not. Well, here's a year's
3 worth of credit where he has done the right thing. He's told
4 -- he's been told what to do and he does this. You know, if a
5 year's worth of being compliant and not just showing up to
6 court, but having this GPS monitor and showing up every month,
7 if a year's worth of doing the right thing is not sufficient to
8 rebut the presumption and not sufficient to set him on
9 conditions of release, then this might as well be a mandatory
10 detention case. Because I can't think of another scenario
11 where a person is just on bond for a year doing the right thing
12 and he gets detained. And I know that the Court is -- has to
13 weigh the strength of the evidence.

14 One of the things that I've thought about about this
15 case is reminded of what Justice Scalia said in the famous
16 *Crawford versus Washington* decision. And he said that nothing
17 is more essential than the cross-examining of witnesses before
18 the triers of fact. I can't do that here. I can't do that in
19 a detention hearing. I can't confront Complaining Witness
20 No. 1; I can't confront Complaining Witness No. 2. Unlike a
21 drug case where you have an agent testify or probably what the
22 evidence is going to be. So when you have actual people that
23 have to be confronted, it's a whole different ball game. And
24 it comes -- and I know that you have heard evidence, but this
25 case is probably going to be decided from the credibility of

1 the people that testify. And I cannot do that at this point.
2 And it pains me to cross-examine an FBI agent about his
3 recollection of testimony and double or triple layers of
4 hearsay. It's just -- I can't do it. Nobody can.

5 So I just want the Court to take that into
6 consideration. I'm not going to, you know, go over all of his
7 conditions of release, but he's done all that. He's gone to a
8 temple. He's had no complaints there. And he's tried to do
9 the right thing.

10 And the other thing to consider is if you were to
11 release him, well, he's not only going to be under supervision
12 of Federal Court, but he's also going to be supervised in
13 State court. So that's two visits, that's probably two drug
14 tests, that's two court dates that he has to appear in and has
15 to report. So now you're going to have a person that's on two
16 bond supervisions, which I think is significant. Obviously,
17 you see these cases -- you see cases where they're on
18 supervision in a State court. I don't -- I think it's
19 unprecedented where they're on supervisions in two different
20 jurisdictions. And I think that's something that also rebuts
21 the presumption and, you know, can persuade the Court to set
22 conditions of release.

23 THE COURT: Mr. Edwards?

24 MR. EDWARDS: Yes, Your Honor. Your Honor, as to
25 the, you know, the basis for confinement, we have argued all

1 along that he is a danger to the community. We haven't argued
2 flight risk because we feel that the evidence that we can see,
3 touch and feel goes to, you know, his actions of being a
4 danger, in particular to women. But, Your Honor, you are
5 correct in considering all the factors and the fact that, you
6 know, he is facing a life sentence and the severity of the
7 charges is definitely something to weigh heavily when
8 considering whether or not to confine Mr. Ruiz until trial.

9 But, Your Honor, you know, speaking to argument of
10 him being a danger, this is a former officer who swore to
11 protect and defend. And so, unlike, you know, your normal
12 rapist, if we can even call it that, you know, the state of
13 mind of someone who carries a weapon who's in a position of
14 authority over women, you know, to commit this type of act,
15 Your Honor, the way he committed this type of act, well, we've
16 really tried to enforce on the Court.

17 Really, the fact that it's something that's a
18 surprise to his family. Everyone sees him as a quiet -- as a
19 quiet guy. But under the cover of darkness at night he's
20 committing these acts with vulnerable women who he has in these
21 vulnerable positions and he has -- he used that authority to
22 exploit that by putting Victim 2 in fear that, you know, he has
23 friends in high places who can do things to her and that she
24 could be deported or that her son could be taken away. By
25 putting Victim 1 in fear that she could be taken to jail.

1 And, Your Honor, you know, we've heard some
2 indication from Mr. Martinez that, you know, this may be a case
3 involving a consent defense. But, Your Honor, when you look at
4 the facts of the dash cam showing the second stop of Victim 1,
5 the fact that he took her license and admitted during
6 questioning that he took her license. The fact that he didn't
7 conduct a field sobriety test or do any of the markers of what
8 a normal stop would be. You Honor, that all goes to the
9 strength of the Government's case. And just the demeanor
10 evidence of Victim 2, Your Honor, just the idea that she would
11 engage in sex with an officer right after her husband has been
12 arrested for DUI, that she would do that voluntarily while her
13 son is in another room. You know, Your Honor, I think that
14 goes to the strength of the evidence that this is a case
15 involving non-consent and a case involving the abuse of his
16 authority to commit these acts against these women.

17 And so, Your Honor, you know, in the commission of
18 these acts we believe they were premeditated. And since that
19 Officer Ruiz took steps to cover up his tracks by turning off
20 the audio, by taking Victim 1 to the side of his vehicle out of
21 view of the dash cam. He took steps to cover up those tracks.
22 And, Your Honor, we just don't know what we don't know about
23 Officer Ruiz because it was a surprise to his family. All
24 along they didn't know and couldn't know exactly what he was
25 capable of. And now we have him in a position where he's

1 working at a temple, he's around other women. And, you know,
2 he's an individual that in the Government's view is worse than
3 the typical criminal because that's a significant barrier you'd
4 have to overcome from swearing to protect and defend to
5 exploiting and assaulting and threatening.

6 And, Your Honor, while it may be not a proper and
7 necessary consideration for this Court, the Government, you
8 know, needs to bring to your attention that these women are
9 still out here, they still fear this man. And while he's
10 walking the streets they still have to sleep at night, still
11 have to be comfortable stepping outside their door and walking
12 down the street at night and not wondering if Officer Ruiz is
13 lurking behind every corner.

14 And so, Your Honor, we believe that Officer Ruiz
15 should be detained and awaiting trial because he does pose that
16 threat to women within the community and particularly to the
17 two women involved in this case.

18 THE COURT: Mr. Martinez, one of -- someone was
19 raising their hand. Is it one of the family members?

20 MS. AMAYA: Your Honor, may I be able to speak? I'm
21 his wife.

22 THE COURT: Go ahead, ma'am. I mean -- without you
23 -- I'll let you speak, but just understand without you being
24 under oath, without getting a chance to cross-examine, there's
25 only so much value I could put on that. And so, I want you to

1 listen to your lawyer that he -- there's a reason why he didn't
2 want to put you under oath. But, you know, it's your husband,
3 it's his liberty, so go ahead.

4 MS. AMAYA: I just wanted to say that I've been the
5 one who put my name on the bond. I've been the one to get the
6 lawyer. I've been the one searching for everything. And I'm
7 not the type of person who would just leave someone dangerous
8 with my children. The easiest thing for me to have done would
9 have been to just get a divorce and get me out of this one.
10 And I'm sorry, but like if I'm still here it's for a good
11 reason. And part of us actually wanted the FBI, like we
12 weren't as upset that the FBI got involved because we were
13 actually thinking, well, the FBI's intelligent, hopefully,
14 they'll dig into this, do their research and get to the bottom
15 of what's really happening. But I just want you to know that I
16 wouldn't have been here for no reason.

17 THE COURT: And, look, ma'am, I respect what you're
18 saying, but I've got -- and that's admirable, but I think that
19 you'd also probably agree with me that if you've heard the
20 evidence over the two days, what's undisputed is that your
21 husband pulled somebody over that was under the influence and
22 as a police officer, you know, his position is engaged in a
23 consensual act. I mean I don't think you'd ever think that
24 before this occurred that your husband would do something like
25 that. And so, that's -- I mean would you? Would you think

1 that before this that when your husband's working at night and
2 you're at home that he's pulling over people that are under the
3 influence and engaging in consensual acts with them?

4 MR. AMAYA: I know him well enough to know what he
5 would be able to do and not be able to do. And he -- with
6 women he's very respectful. A lot of girlfriends have left him
7 because of that. He would never do that sort of thing. I know
8 him very well, and I know you want to tell me that it's just
9 the circumstances, but I know him very well. And sexual
10 assault, you-all are charging him with sexual assault. This is
11 not sexual assault. I'm sorry.

12 And like -- I know this is detention hearing and this
13 is (indiscernible). And I honestly don't know -- he used just
14 needs to be with his family. We want to clear this up. This
15 is the time, I'm sorry, but if you-all do for some reason
16 charge him (indiscernible) you're taking him from us. We
17 didn't get the chance -- I didn't get the chance
18 (indiscernible). He won't leave. I know he won't leave. He
19 won't leave his children.

20 THE COURT: Thank you, ma'am.

21 Anything else, Mr. Martinez?

22 MR. MARTINEZ: (No audible response.)

23 THE COURT: You're on mute now again -- can't hear
24 you. We still can't -- for some reason we still can't hear
25 you. Yeah, sometimes if you -- like if you have a TV in there

1 and you turn the volume on that and that's just the volume on
2 the computer.

3 (Pause.)

4 THE COURT: Yeah, we still can't hear you. Is there
5 another remote there? Because you're not on mute, but you're
6 -- do you have another remote in the room? There you go.

7 MR. MARTINEZ: I got this mic when I started doing
8 ZOOM hearings and I turned it off accidentally.

9 The only thing that I forgot to say was the standard
10 is clear and convincing if this is a danger to the community,
11 which, you know, other than beyond a reasonable doubt. But
12 that's the next burden. And that's all I wanted to put out
13 there.

14 THE COURT: Well, I will -- I will take it under
15 submission. It will take me a few days to write an opinion.
16 You know, obviously, both parties agreed to deal with what
17 Judge Eskridge has given you. Given a lot of thought. I've
18 given you what -- you know, where I was leaning. But I will
19 take your arguments into consideration (indiscernible). But
20 again, Mr. Edwards, Mr. Martinez, you both did, you know, a
21 good job in presenting the evidence (indiscernible).

22 MR. MARTINEZ: Thank you, Your Honor.

23 MR. EDWARDS: Thank you, Your Honor.

24 THE COURT: Thank you. Okay. Thank you all.

25 (Proceeding concluded at 5:38 p.m.)

* * * * *

I certify that the foregoing is a correct transcript
to the best of my ability due to the condition of the
electronic sound recording of the ZOOM/telephonic proceedings
in the above-entitled matter.

/S./ MARY D. HENRY

CERTIFIED BY THE AMERICAN ASSOCIATION OF
ELECTRONIC REPORTERS AND TRANSCRIBERS, CET**337
JUDICIAL TRANSCRIBERS OF TEXAS, LLC
JTT TRANSCRIPT #63328
DATE FILED: JANUARY 31, 2021